

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JIMMIE LEWIS,)	
)	
Plaintiff,)	
)	CONSOLIDATED
v.)	C.A. No. 05-013-GMS
)	C.A. No. 05-051-GMS
)	C.A. No. 05-052-GMS
WARDEN RAPHAEL WILLIAMS, et al.,)	
)	Jury Trial Requested
Defendants.)	

**STATE DEFENDANTS' ANSWER TO PLAINTIFF'S ORIGINAL AND
FIRST AND SECOND AMENDED COMPLAINTS [RE: D.I. 2, 8 AND 18]**

COMES NOW, State Defendants Stanley Taylor, Raphael Williams, Thomas Carroll, Mark Emig, David Bamford, Philip Parker, Dave Williams, Joseph Sabato, Patrick Sheets, Sylvia Farmer, Fred Way, Charles Richards, Michael Lewis, Howard Kennedy, Arthur Davis, Christopher Chappel, Corey Johnson, Mark Blue, Bradford Apa, Vincent Williams, Christopher Cannon, Gary Ince, Richard Gassner, Denisha Young, Glenn Wayman, Zachary Rodriguez, Brian Berggrun, and Donald Chudzik (the "State Defendants")¹, by and through their undersigned counsel, and hereby respond to the unnumbered and numbered paragraphs of Plaintiff's Original Complaint (D.I. 2), First Amended Complaint (D.I. 8), and Second Amended Complaint (D.I. 18) (together the "Original and Amended Complaints"), as follows:

¹ The following defendants have not been served and, therefore, are not a party to this Answer: Mitchel, A. Goins, Harriford, Cumberback, Presley, Newman, Soul, A. Armstrong, Mack Reynolds, Nannett Bordley, Tamiko Chaffer, and Hardgrave.

REMAINING CLAIMS – ORIGINAL AND AMENDED COMPLAINTS

On March 6, 2006, this Court issued a Memorandum Opinion and Order (D.I. 25 and 26, respectively) analyzing Plaintiff's claims pursuant to 28 *U.S.C.* §§ 1915 and 1915A. As a result, many of Plaintiff's claims from both the Original and First and Second Amended Complaints were dismissed. This is the State Defendants' response to the claims remaining from Plaintiff's Original and Amended Complaints.

ORIGINAL COMPLAINT

Grievance Disclaimer Section

State Defendants respond to the numbered paragraphs of the "Grievance Disclaimer" section of Plaintiff's Original Complaint as follows:

Paragraph 1: The allegations of Paragraph 1 of the "Grievance Disclaimer" section of the Original Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 1 is not required.

Paragraph 2: The allegations of Paragraph 2 of the "Grievance Disclaimer" section of the Original Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 2 is not required.

Paragraph 3: The allegations of Paragraph 3 of the "Grievance Disclaimer" section of the Original Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 3 is not required.

Paragraph 4: The allegations of Paragraph 4 of the "Grievance

Disclaimer” section of the Original Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 4 is not required.

The remaining allegations of the “Grievance Disclaimer” section of the Original Complaint also appear to have been dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to the remaining allegations is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Statement of Claim Section

State Defendants respond to the unnumbered paragraphs of the “Statement of Claim” section of Plaintiff’s Original Complaint as follows

Paragraph 1: The allegations of Paragraph 1 of the “Statement of Claim” section of the Original Complaint that begin with the words, “The date of my incarceration ...” are denied.

Paragraph 2: The allegations of Paragraph 2 of the “Statement of Claim” section of the Original Complaint that begin with the words, “While in the infirmary’s ...” are denied.

Paragraph 3: The allegations of Paragraph 3 of the “Statement of Claim” section of the Original Complaint that begin with the words, “These room(s) are the only...” are denied.

Paragraph 4: The allegations of Paragraph 4 of the “Statement of Claim” section of the Original Complaint that begin with the words, “I’ve been subjected ...” are denied.

Paragraph 5: The allegations of Paragraph 5 of the “Statement of Claim” section of the Original Complaint that begin with the words, “During the summer...” are denied.

Paragraph 6: The allegations of Paragraph 6 of the “Statement of Claim” section of the Original Complaint that begin with the words, “During the course ...” are denied.

Paragraph 7: The allegations of Paragraph 7 of the “Statement of Claim” section of the Original Complaint that begin with the words, “During the later part ...” are denied.

Paragraph 8: The allegations of Paragraph 8 of the “Statement of Claim” section of the Original Complaint that begin with the words, “During Oct of 2003 ...” are denied.

Paragraph 9: The allegations of Paragraph 9 of the “Statement of Claim” section of the Original Complaint that begin with the words, “I informed Lt. Chudzik ...” are denied.

Paragraph 10: The allegations of Paragraph 10 of the “Statement of Claim” section of the Original Complaint that begin with the words, “These acts were committed ...” were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 10 is not required.

Paragraph 11: The allegations of Paragraph 11 of the “Statement of Claim” section of the Original Complaint that begin with the words, “Also, on 1-E ...” were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 11 is not required.

Paragraph 12: The allegations of Paragraph 12 of the “Statement of Claim” section of the Original Complaint that begin with the words, “I am not provided ...” were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 12 is not required.

Paragraph 13: The allegations of Paragraph 13 of the “Statement of Claim” section of the Original Complaint that begin with the words, “On several occasions [sic] ...” are denied.

Paragraph 14: The allegations of Paragraph 14 of the “Statement of Claim” section of the Original Complaint that begin with the words, “Policies of the D.O.C. ...” were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 14 is not required.

Paragraph 15: The allegations of Paragraph 15 of the “Statement of Claim” section of the Original Complaint that begin with the words, “Furthermore, during my first day ...” are denied.

Paragraph 16: The allegations of Paragraph 16 of the “Statement of Claim” section of the Original Complaint that begin with the words, “Not being able ...” were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 16 is not required.

Paragraph 17: The allegations of Paragraph 17 of the “Statement of Claim” section of the Original Complaint that begin with the words, “H.R.Y.C.I. security ...” were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 17 is not required.

Paragraph 18: The allegations of Paragraph 18 of the “Statement of

Claim” section of the Original Complaint that begin with the words, “Due to my Superior Court case ...” were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 18 is not required.

Paragraph 19: The allegations of Paragraph 19 of the “Statement of Claim” section of the Original Complaint that begin with the words, “Because each pod in this inst. ...” were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 19 is not required.

Paragraph 20: The allegations of Paragraph 20 of the “Statement of Claim” section of the Original Complaint that begin with the words, “It is protocol ...” were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 20 is not required.

Paragraph 21: The allegations of Paragraph 21 of the “Statement of Claim” section of the Original Complaint that begin with the words, “H.R.Y.C.I. utilizes a two way ...” were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 21 is not required.

Paragraph 22: The allegations of Paragraph 22 of the “Statement of Claim” section of the Original Complaint that begin with the words, “During the summer of 2004 ...” were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 22 is not required.

Paragraph 23: The allegations of Paragraph 23 of the “Statement of Claim” section of the Original Complaint that begin with the words, “Being a mental health patient ...” were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 23 is not required.

Paragraph 24: The allegations of Paragraph 24 of the “Statement of Claim” section of the Original Complaint that begin with the words, “Also, Judge Charles H. Tolivier IV ordered ...” were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 24 is not required.

FIRST AMENDED COMPLAINT

State Defendants respond to the numbered paragraphs of Plaintiff’s First Amended Complaint as follows:

Parties

Paragraph 1: The allegations of Paragraph 1 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 2: The allegations of Paragraph 2 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 3: The allegations of Paragraph 3 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 4: The allegations of Paragraph 4 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 5: The allegations of Paragraph 5 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 6: The allegations of Paragraph 6 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 7: The allegations of Paragraph 7 of the “Parties” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 7 is not required.

Paragraph 8: The allegations of Paragraph 8 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 9: The allegations of Paragraph 9 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 10: The allegations of Paragraph 10 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 11: The allegations of Paragraph 11 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 12: The allegations of Paragraph 12 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 13: The allegations of Paragraph 13 of the “Parties” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 13 is not required.

Paragraph 14: The allegations of Paragraph 14 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 15: The allegations of Paragraph 15 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 16: The allegations of Paragraph 16 of the “Parties” section of the First Amended Complaint are directed to a party who is deceased and has not been served. Therefore a response to Paragraph 16 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 17: The allegations of Paragraph 17 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 18: The allegations of Paragraph 18 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 19: The allegations of Paragraph 19 of the “Parties” section of the First Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 19 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 20: The allegations of Paragraph 20 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 21: The allegations of Paragraph 21 of the “Parties” section of the First Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 21 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 22: The allegations of Paragraph 22 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 23: The allegations of Paragraph 23 of the “Parties” section of the First Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 23 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 24: The allegations of Paragraph 24 of the “Parties” section of the First Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 24 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 25: The allegations of Paragraph 25 of the “Parties” section of

the First Amended Complaint are denied.

Paragraph 26: The allegations of Paragraph 26 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 27: The allegations of Paragraph 27 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 28: The allegations of Paragraph 28 of the “Parties” section of the First Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 28 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 29: The allegations of Paragraph 29 of the “Parties” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 29 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 30: The allegations of Paragraph 30 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 31: The allegations of Paragraph 31 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 32: The allegations of Paragraph 32 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 33: The allegations of Paragraph 33 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 34: The allegations of Paragraph 34 of the “Parties” section of

the First Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 34 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 35: The allegations of Paragraph 35 of the “Parties” section of the First Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 35 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 36: The allegations of Paragraph 36 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 37: The allegations of Paragraph 37 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 38: The allegations of Paragraph 38 of the “Parties” section of the First Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 38 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 39: The allegations of Paragraph 39 of the “Parties” section of the First Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 39 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 40: The allegations of Paragraph 40 of the “Parties” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 40 and, therefore, deny same. By way of further

response, State Defendants specifically deny any wrongdoing.

Paragraph 41: The allegations of Paragraph 41 of the “Parties” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 41 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 42: The allegations of Paragraph 42 of the “Parties” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 42 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 43: The allegations of Paragraph 43 of the “Parties” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 43 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 44: The allegations of Paragraph 44 of the “Parties” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 44 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 45: The allegations of Paragraph 45 of the “Parties” section of the First Amended Complaint are directed to another party. As such, State Defendants

are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 45 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 46: The allegations of Paragraph 46 of the “Parties” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 46 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 47: The allegations of Paragraph 47 of the “Parties” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 47 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 48: The allegations of Paragraph 48 of the “Parties” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 48 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 49: The allegations of Paragraph 49 of the “Parties” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 49 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 50: The allegations of Paragraph 50 of the “Parties” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 50 is not required.

Paragraph 51: The allegations of Paragraph 51 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 52: The allegations of Paragraph 52 of the “Parties” section of the First Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 52 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 53: The allegations of Paragraph 53 of the “Parties” section of the First Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 53 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 54: The allegations of Paragraph 54 of the “Parties” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 54 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 55: The allegations of Paragraph 55 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 56: The allegations of Paragraph 56 of the “Parties” section of the First Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 56 is not required. To the extent a response is required, State

Defendants specifically deny any wrongdoing.

Paragraph 57: The allegations of Paragraph 57 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 58: The allegations of Paragraph 58 of the “Parties” section of the First Amended Complaint are denied.

Paragraph 59: The allegations of Paragraph 59 of the “Parties” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 59 is not required.

Paragraph 60: The allegations of Paragraph 60 of the “Parties” section of the First Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 60 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Claims

Paragraph 1: The allegations of Paragraph 1 of the “Claims” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 1 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 2: The allegations of Paragraph 2 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 3: The allegations of Paragraph 3 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 4: The allegations of Paragraph 4 of the “Claims” section of

the First Amended Complaint are denied.

Paragraph 5: The allegations of Paragraph 5 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 5 is not required.

Paragraph 6: The allegations of Paragraph 6 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 7: The allegations of Paragraph 7 of the “Claims” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 7 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 8: The allegations of Paragraph 8 of the “Claims” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 8 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 9: The allegations of Paragraph 9 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 9 is not required.

Paragraph 10: The allegations of Paragraph 10 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 11: The allegations of Paragraph 11 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 12: The allegations of Paragraph 12 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 13: The allegations of Paragraph 13 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 14: The allegations of Paragraph 14 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 15: The allegations of Paragraph 15 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 16: The allegations of Paragraph 16 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 16 is not required.

Paragraph 17: The allegations of Paragraph 17 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 18: The allegations of Paragraph 18 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 19: The allegations of Paragraph 19 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 19 is not required.

Paragraph 20: The allegations of Paragraph 20 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 21: The allegations of Paragraph 21 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 22: The allegations of Paragraph 22 of the “Claims” section of

the First Amended Complaint are denied.

Paragraph 23: The allegations of Paragraph 23 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 24: The allegations of Paragraph 24 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 25: The allegations of Paragraph 25 of the “Claims” section of the First Amended Complaint are directed to a party who has not been served. Further, the allegations of Paragraph 25 were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 25 is not required.

Paragraph 26: The allegations of Paragraph 26 of the “Claims” section of the First Amended Complaint are directed to another party. Further, the allegations of Paragraph 26 were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 26 is not required.

Paragraph 27: The allegations of Paragraph 27 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 28: The allegations of Paragraph 28 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 28 is not required.

Paragraph 29: The allegations of Paragraph 29 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 29 is not required.

Paragraph 30: The allegations of Paragraph 30 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006

Memorandum Opinion and Order. Therefore a response to Paragraph 30 is not required.

Paragraph 31: The allegations of Paragraph 31 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 31 is not required.

Paragraph 32: The allegations of Paragraph 32 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 32 is not required.

Paragraph 33: The allegations of Paragraph 33 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 33 is not required.

Paragraph 34: The allegations of Paragraph 34 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 34 is not required.

Paragraph 35: The allegations of Paragraph 35 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 35 is not required.

Paragraph 36: The allegations of Paragraph 36 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 36 is not required.

Paragraph 37: The allegations of Paragraph 37 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 37 is not required.

Paragraph 38: The allegations of Paragraph 38 of the “Claims” section of

the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 38 is not required.

Paragraph 39: The allegations of Paragraph 39 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 39 is not required.

Paragraph 40: The allegations of Paragraph 40 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 40 is not required.

Paragraph 41: The allegations of Paragraph 41 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 41 is not required.

Paragraph 42: The allegations of Paragraph 42 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 42 is not required.

Paragraph 43: The allegations of Paragraph 43 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 43 is not required.

Paragraph 44: The allegations of Paragraph 44 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 45: The allegations of Paragraph 45 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 45 is not required.

Paragraph 46: The allegations of Paragraph 46 of the “Claims” section of

the First Amended Complaint are denied.

Paragraph 47: The allegations of Paragraph 47 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 48: The allegations of Paragraph 48 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 49: There is no paragraph 49 in Plaintiff’s First Amended Complaint.

Paragraph 50: There is no paragraph 50 in Plaintiff’s First Amended Complaint.

Paragraph 51: There is no paragraph 51 in Plaintiff’s First Amended Complaint.

Paragraph 52: The allegations of Paragraph 52 of the “Claims” section of the First Amended Complaint appear to be directed to a person who is not a party to this case. Therefore a response to Paragraph 52 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 53: The allegations of Paragraph 53 of the “Claims” section of the First Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 53 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 54: The allegations of Paragraph 54 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 55: The allegations of Paragraph 55 of the “Claims” section of

the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 55 is not required.

Paragraph 56: The allegations of Paragraph 56 of the “Claims” section of the First Amended Complaint are denied.

Paragraph 57: The allegations of Paragraph 57 of the “Claims” section of the First Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 57 is not required.

SECOND AMENDED COMPLAINT

State Defendants respond to the numbered paragraphs of Plaintiff’s Second Amended Complaint as follows:

Paragraph 1: The allegations of Paragraph 1 of the “Statement of Claim” section of the Second Amended Complaint are denied.

Paragraph 2: The allegations of Paragraph 2 of the “Statement of Claim” section of the Second Amended Complaint are denied.

Paragraph 3: The allegations of Paragraph 3 of the “Statement of Claim” section of the Second Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 3 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 4: The allegations of Paragraph 4 of the “Statement of Claim” section of the Second Amended Complaint are denied.

Paragraph 5: The allegations of Paragraph 5 of the “Statement of Claim” section of the Second Amended Complaint are directed to another party. As such, State

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 5 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 6: The allegations of Paragraph 6 of the “Statement of Claim” section of the Second Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 6 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 7: The allegations of Paragraph 7 of the “Statement of Claim” section of the Second Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 7 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 8: The allegations of Paragraph 8 of the “Statement of Claim” section of the Second Amended Complaint are directed to another party. Further, the allegations of Paragraph 8 were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 8 is not required.

Paragraph 9: The allegations of Paragraph 9 of the “Statement of Claim” section of the Second Amended Complaint are denied.

Paragraph 10: The allegations of Paragraph 10 of the “Statement of Claim” section of the Second Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 10 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 11: The allegations of Paragraph 11 of the “Statement of Claim” section of the Second Amended Complaint are directed to an individual who is not a party to this litigation and who has not been served. Therefore a response to Paragraph 11 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 12: The allegations of Paragraph 12 of the “Statement of Claim” section of the Second Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 12 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 13: The allegations of Paragraph 13 of the “Statement of Claim” section of the Second Amended Complaint are denied.

Paragraph 14: The allegations of Paragraph 14 of the “Statement of Claim” section of the Second Amended Complaint are denied.

Paragraph 15: The allegations of Paragraph 15 of the “Statement of Claim” section of the Second Amended Complaint are denied.

Paragraph 16: The allegations of Paragraph 16 of the “Statement of Claim” section of the Second Amended Complaint are denied.

Paragraph 17: The allegations of Paragraph 17 of the “Statement of Claim” section of the Second Amended Complaint are directed to a party who has not been served. Therefore a response to Paragraph 17 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 18: The allegations of Paragraph 18 of the “Statement of Claim” section of the Second Amended Complaint are directed to a party who has not

been served. Therefore a response to Paragraph 18 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 19: The allegations of Paragraph 19 of the “Statement of Claim” section of the Second Amended Complaint are denied.

Paragraph 20: The allegations of Paragraph 20 of the “Statement of Claim” section of the Second Amended Complaint are denied.

Paragraph 21: The allegations of Paragraph 21 of the “Statement of Claim” section of the Second Amended Complaint are directed to an individual who is not a party to this litigation and who has not been served. Therefore a response to Paragraph 21 is not required. To the extent a response is required, State Defendants specifically deny any wrongdoing.

Paragraph 22: The allegations of Paragraph 22 of the “Statement of Claim” section of the Second Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 22 is not required.

Paragraph 23: The allegations of Paragraph 23 of the “Statement of Claim” section of the Second Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 23 is not required.

Paragraph 24: The allegations of Paragraph 24 of the “Statement of Claim” section of the Second Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 24 is not required.

Paragraph 25: The allegations of Paragraph 25 of the “Statement of Claim” section of the Second Amended Complaint are denied.

Paragraph 26: The allegations of Paragraph 26 of the “Statement of Claim” section of the Second Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 26 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 27: The allegations of Paragraph 27 of the “Statement of Claim” section of the Second Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 27 is not required.

Paragraph 28: The allegations of Paragraph 28 of the “Statement of Claim” section of the Second Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 28 is not required.

Paragraph 29: The allegations of Paragraph 29 of the “Statement of Claim” section of the Second Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 29 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 30: The allegations of Paragraph 30 of the “Statement of Claim” section of the Second Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief

as to the truth of the allegations asserted in Paragraph 30 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 31: The allegations of Paragraph 31 of the “Statement of Claim” section of the Second Amended Complaint are denied.

Paragraph 32: The allegations of Paragraph 32 of the “Statement of Claim” section of the Second Amended Complaint are denied.

Paragraph 33: The allegations of Paragraph 33 of the “Statement of Claim” section of the Second Amended Complaint are denied.

Paragraph 34: The allegations of Paragraph 34 of the “Statement of Claim” section of the Second Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 34 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 35: The allegations of Paragraph 35 of the “Statement of Claim” section of the Second Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 35 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 36: The allegations of Paragraph 36 of the “Statement of Claim” section of the Second Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 36 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 37: The allegations of Paragraph 37 of the “Statement of Claim” section of the Second Amended Complaint are directed to another party. As such, State Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in Paragraph 37 and, therefore, deny same. By way of further response, State Defendants specifically deny any wrongdoing.

Paragraph 38: The allegations of Paragraph 38 of the “Statement of Claim” section of the Second Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 38 is not required.

Paragraph 39: The allegations of Paragraph 39 of the “Statement of Claim” section of the Second Amended Complaint were dismissed by the Court in its March 6, 2006 Memorandum Opinion and Order. Therefore a response to Paragraph 39 is not required.

Paragraph 40: The allegations of Paragraph 40 of the “Statement of Claim” section of the Second Amended Complaint are denied.

RELIEF

State Defendants deny that Plaintiff is entitled to compensatory damages, nominal damages, punitive damages, injunctive relief or any other relief.

DEFENSES AND AFFIRMATIVE DEFENSES

1. The Original Complaint and First and Second Amended Complaints fail to state claims upon which relief may be granted.
2. The action and all claims are barred by Eleventh Amendment immunity.

3. As to any claims against the State or against State Defendants in their official capacities, State Defendants and the State are protected from liability by the doctrine of sovereign immunity.

4. State Defendants, in their official capacities, are not liable for alleged violations of Plaintiff's constitutional rights as they are not "persons" within the meaning of 42 *U.S.C.* § 1983.

5. Officials and employees of the State of Delaware, including the State Defendants, acting in good faith, within the scope of their employment and without knowingly violating well established federal rights, are entitled to qualified immunity and cannot be held liable in this action.

6. As to any claims sounding in state law, State Defendants are immune from liability under the State Tort Claims Act, 10 Del. C. §4001, *et seq.*

7. To the extent the Plaintiff seeks to hold State Defendants liable based on supervisory responsibilities, the Doctrine of Respondeat Superior or vicarious liability is not a basis for liability in an action under 42 *U.S.C.* § 1983.

8. This action and all claims are barred, in whole or in part, by the applicable statute of limitations or any other statutorily required administrative time requirement.

9. Plaintiff has failed to exhaust his administrative remedies, including but not limited to, remedies pursuant to 42 *U.S.C.* § 1997a(e).

10. State Defendants cannot be held liable in the absence of personal involvement for alleged constitutional deprivations.

11. The Plaintiff's claims are barred by his contributory negligence.

12. To the extent Plaintiff's claims sound in negligence, Plaintiff cannot state a cause of action under 42 *U.S.C.* § 1983.

13. Plaintiff fails to state a claim against State Defendants for failure to train or for maintenance of wrongful customs, practices and policies.

14. Plaintiff fails to state a claim against State Defendants for violation of the First Amendment.

15. Plaintiff fails to state a claim against State Defendants for violation of the Eighth Amendment.

16. Plaintiff fails to state a claim against State Defendants for violation of the Fourteenth Amendment.

17. Plaintiff's injuries, if any, were caused, in whole or in part, and/or exacerbated by a pre-existing condition which existed prior to the date of any alleged wrongful conduct by the State Defendants.

18. Plaintiff's injuries and damages, if any, resulted from an intervening and superseding cause.

19. Plaintiff's own conduct proximately caused and/or exacerbated his injuries, if any.

20. Plaintiff's claims are moot because he is no longer incarcerated at the Howard R. Young Correctional Institution.

21. Insufficiency of service of process.

22. Insufficiency of process.

23. Lack of jurisdiction over the person and subject matter.

WHEREFORE, State Defendants respectfully request the Court grant judgment in their favor and against the Plaintiff in all respects, and enter an Order (i) dismissing the Complaint in its entirety as to the State Defendants; (ii) awarding State Defendants their fees and costs; and (iii) granting such other and further relief as is just and proper.

**DEPARTMENT OF JUSTICE
STATE OF DELAWARE**

/s/ Erika Y. Tross

Erika Y. Tross (#4506)
Deputy Attorney General
820 N. French Street
Wilmington, DE 19801
(302) 577-8400
Attorney for the State Defendants

Dated: December 4, 2006

CERTIFICATE OF SERVICE

I, Erika Y. Tross, Esq., hereby certify that on December 4, 2006, I caused a true and correct copy of the attached *State Defendants' Answer To Plaintiff's Original And First And Second Amended Complaints [Re: D.I. 2, 8 and 18]* to be served on the following individual in the form and manner indicated:

NAME AND ADDRESS OF RECIPIENT(S):

Inmate Jimmie Lewis
SBI # 506622
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

MANNER OF DELIVERY:

- ☐ One true copy by facsimile transmission to each recipient
- ☒ Two true copies by first class mail, postage prepaid, to each recipient
- ☐ Two true copies by Federal Express
- ☐ Two true copies by hand delivery to each recipient

/s/ Erika Y. Tross

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